IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 87 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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A C NAIR

Versus

SUJATMIYA BACHUMIYA SAIYED

Appearance:

1. Criminal Revision Application No. 87 of 1997

MR MUKESH R SHAH for Petitioner No. 1

MR KB ANANDJIWALA for Respondent No. 1

MR BD DESAI, APP for Respondent No.2 State

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 30/04/2002

ORAL JUDGEMENT

1. Heard ld. counsel Mr. M.R. Shah for the petitioner- original complainant, Mr. K.B. Anandjiwala for Respondent No.1- accused and Ld. APP Mr. Desai for Respondent No.2 State.

2. Original complainant has preferred this Revision Application with a prayer to enhance the sentence imposed by the trial Court. Trial Court, vide judgment dated 30.9.1996 in Criminal Case No. 1954/1994, has held Respondent No.1 accused guilty of the offence punishable under Section 135 of Customs Act and sentenced him to suffer R/I for 3 Years and to pay a fine of Rs.5000/, I/d to undergo further R/I for 6 months. Respondent No.1 accused is also held guilty for the offence punishable under Section 120B of IPC and same quantum of punishment has been imposed on him. Both sentences were ordered to run concurrently.

3. I have considered the totality of the facts and circumstances of the case available on record. Accused has been held guilty on 30.9.1996 and was facing trial since 1992. All other co-accused have been acquitted. The accused has already undergone sentence. Afer lapse of several years and actual order of conviction in the year 1996, enhancement of puishment would be highly improper and injudicious. Even on merits, this is not a cse for enhancement of sentence and, therefore, prayer to enhance punishment requires to be rejected.

4. In the result, Criminal Revision Application is dismissed. Rule is discharged.

30.4.2002 [C.K. BUCH, J]
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